IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2847 OF 2006

Maharashtra General Kamgar Union ....Petitioner.

V/s

Bharat Petroleum Corporation Ltd. ...Respondent.

Mr. Abhay Kulkarni for the Petitoner.

Mr. R.S. Pai i/b M/s. Sanjay Udeshi for the Respondent No.1.

CORAM: V.M. KANADE, J.
DATE : 12th April 2007

P.C.

1. Heard the learned Counsel appearing on behalf of the Petitioner and the learned Counsel appearing on behalf of the Respondent.

2. The Petitioner is challenging the award passed by the Central Government Industrial Tribunal whereby the reference made by the Central Government was rejected and the dismissal of workman Somnath Yadav was held to be justified.

3. Brief facts are that it was alleged that the said workman

had assaulted one of the other workmen who had gone to take inspection of the factory and, as a result of assault by the said workman, he was grievously injured. A criminal complaint was also lodged against the said workman Somnath Yadav. Thereafter, domestic inquiry was held and the Inquiry Officer submitted a report holding the said workman guilty of the charges which were levelled against him.

4. Mr. Kulkarni, the learned Counsel appearing on behalf of the Petitioner, submitted that the eye witnesses to the said incident viz injured person Shri Shinde and Shri Waghare were not examined by the Management. He submitted that the evidence which was adduced by the Management was essentially hearsay evidence. He further submitted that when the papers of the preliminary inquiry were demanded by the Petitioner, this report was not submitted. He further submitted that the inquiry proceedings were conducted in English and the Petitioner has specifically requested that the proceedings should be conducted in his mother-tongue Marathi. He submitted that

the entire inquiry was vitiated on the ground of breach of principles of natural justice. He submitted that, therefore, the inquiry which was held was not just, fair and proper.

5. The learned Counsel appearing on behalf of the Respondent, on the other hand, submitted that the inquiry, in fact, was conducted in Marathi. However, the proceedings were recorded in English. He submitted that this Court in the case of Ravaindra Umesh Gokarna & Ors. Vs. GKW Ltd and Ors reported in 1992 (1) CLR, page 792 (Bom) has held that in such a case, there is no breach of principles of natural justice. He further submitted that the medical reports and the certificate clearly establish that Shri Shinde was grievously injured and this fact had been established in inquiry. The other workmen had given cogent evidence in respect of the said incident.

6. In my view, the inquiry has been held properly and it cannot be said that the finding which is recorded by the Tribunal is perverse. In the present case, merely because the Petitioner was acquitted in the criminal case that alone

would not be a justification for setting aside the report which was submitted by the Inquiry Officer. I do not see any reason to interfere with the order passed by the Central Government Industrial Tribunal while exercising writ jurisdiction. Writ Petition is, therefore, dismissed in limine.

(V.M. KANADE, J.)